



## **Mobile Broadband Group**

### **Response of the Mobile Broadband Group to the Consultation on the Draft Guidance on Part 1 of the Civil Contingencies Act, its associated regulations and non-statutory guidance.**

The Mobile Broadband Group (“MBG”, consisting of O2, Orange, T-Mobile, Vodafone and 3) welcomes the opportunity to comment on the Cabinet Office’s consultation.

The MBG broadly welcomes the draft regulations and guidance to the Civil Contingencies Act. During the passage of the Bill, the Government made it clear that they *“are committed to minimising regulatory burdens. In fact, it is fair to say that we have been careful to accommodate the concerns of private sector firms; I can see every reason for the private sector to play its part in civil protection arrangements alongside the public and voluntary sectors”*<sup>1</sup>

In general, the Government has stood by that commitment in drawing up the regulations and guidelines. We have, nonetheless, comments on two aspects – **Making the LRF process work in practice** and **Information sharing**.

#### ***Making the LRF process work in practice***

The MBG welcomes the guidance in sections 2.15 that category 2 responders have a right to attend LRFs and that, as stated in 2.49, meetings should be properly scheduled and organised and that papers should be circulated to stakeholders before and after meetings. This will enable mobile operators to assess whether personal attendance would add value for the LRF or the operator. We also welcome the clarification in section 2.88 that Category 1 responders should be aware of the emergency planning obligations prescribed by Ofcom on the telecommunications operators.

The MBG proposes a small but important modification to this section, to give all parties flexibility in determining what is a proportionate and reasonable involvement in LRF meetings:

**In section 2.18**, the last sentence should read: “If, as a result, the agenda is likely to include discussion matters relating to a particular Category 2 responder, that responder (or class of responders) needs to make arrangements to attend, be effectively represented or make relevant written submissions”.

It would also be helpful to clarify that for those organisations that make their emergency planning arrangements on a national basis, it is not necessary for representatives to be based in the locality of an LRF. Mobile operators have already received a number of letters requesting that ‘local’ representatives come to planning meetings.

#### **Information sharing**

The MBG is still very concerned about the issue of information sharing.

The guidelines rightly acknowledge (in section 3.21) that the disclosure of sensitive information could be damaging to the legitimate interests of the business. They should also

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<sup>1</sup> Lord Bassam, Hansard, 9<sup>th</sup> Nov 2004, col 795

add that disclosure could compromise the integrity of the Category 2's business continuity arrangements.

We realise that Responders have to give reasons for requesting information and that the received information should be used only for that purpose.

**We disagree with the policy, as stated in 3.20 (a), that “*this [right to hold back information] exception is only rarely likely to be available, as generally there will be no robust reason to expect that information would be passed on*”**

In the light of the **Freedom of Information Act 2000**, there is a strong expectation that information could be passed on, as the guidance makes clear in paragraph 3.51..

The MBG strongly suggests that the emphasis of this section be changed. Clearly we are not seeking a position whereby the default is to refuse information by declaring it to be sensitive. The responder should, though, be obliged to make a compelling case for requesting 'sensitive information' and should also be required to make a full disclosure of:

- a) How the information will be stored, who will have access to it and the arrangements being made to keep it secure.
- b) How the information will be dealt with in light of an FOI request.

Without this information being forthcoming, the Category 2 responder should be able to refuse to comply with a request.

The MBG is also very concerned that there is no recourse to a responder that has received sensitive information, has agreed to keep it confidential but then fails to do so. In a commercial situation, the recipient would sign a non-disclosure agreement and would be capable of being sued if the terms of the agreement were breached and the donor suffered a loss as a result. Recipients that are negligent in the handling of information should be liable to the party to whom they have caused loss.

The MBG does not anticipate that much of the information requested will be sensitive but in instances where it is, it will be very important to keep it secure. The MBG has taken heed of the Government's observation that “*by proactively making information available, category 2 responders will effectively choke off demand for individual pieces of information, which can become very burdensome.*”

We are keen to give all practical assistance to develop robust emergency planning arrangements in the UK but these have to be balanced with more reasonable arrangements on information sharing.

If any questions arise from the contents of this submission, further information can be obtained by writing to Mobile Broadband Group, PO Box 34586, London SE15 5YA or e-mailing Hamish MacLeod at [mbg@mobilebroadbandgroup.com](mailto:mbg@mobilebroadbandgroup.com).